

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

WILLIAM R. WASHINGTON #100802,

Petitioner,

Case No. 2:07-CV-258

v.

HON. ROBERT HOLMES BELL

LINDA M. METRISH,

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION
AND DISMISSING PETITION FOR WRIT OF HABEAS CORPUS**

This matter is before the Court on Petitioner William R. Washington's objections to the Magistrate Judge's April 21, 2008, Report and Recommendation ("R&R") recommending that Petitioner's § 2254 petition for writ of habeas corpus be dismissed with prejudice pursuant to Rule 4 of the Rules Governing § 2254 Cases, because it plainly appears from the petition and the attached exhibits that Petitioner's application is barred by the one-year period of limitations provided in 28 U.S.C. § 2244(d)(1). (Dkt. No. 11.) Petitioner filed objections to the R&R on May 19, 2008. (Dkt. No. 15.)

This Court is required to make a de novo determination of those portions of the R&R to which objection has been made, and may accept, reject, or modify any or all of the Magistrate Judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Although the Magistrate Judge's R&R is reviewed de novo, this Court must review the state court proceedings consistent with the standards set forth in 28 U.S.C. § 2254.

Petitioner objects to the R&R because he contends that he was denied access to relevant state court records and documents necessary to prove his claim of actual innocence. Specifically, Petitioner notes that by letter dated April 20, 2005, he was advised that transcripts of his jury voir dire and arraignment were never transcribed and that the court reporter's notes had been destroyed.

Petitioner's objections are not responsive to the Magistrate Judge's determination that his habeas petition was barred because it was not filed until more than ten years after the expiration of the limitations period. Even if Petitioner could somehow show that the limitations period did not begin to run until April 20, 2005, when he learned that his transcripts were unavailable, or until January 18, 2006, when his latest motion for relief from judgment was denied, the petition would still be untimely because Petitioner did not file his habeas petition until December 26, 2007, more than one year after either of these two events. Accordingly,

IT IS HEREBY ORDERED that Petitioner's objections to the Report and Recommendation of the Magistrate Judge (Dkt. No. 15) are **DENIED**.

IT IS FURTHER ORDERED that the April 21, 2008, Report and Recommendation of the Magistrate Judge (Dkt. No. 11) is **APPROVED** and **ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that Petitioner's petition for writ of habeas corpus (Dkt. No. 1) is **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**. *Slack v. McDaniel*, 529 U.S. 473 (2000).

Dated: May 12, 2009

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE